

2. Defendant Tarrant County Hospital District d/b/a JPS Health Network (hereinafter “JPS”) is a governmental special use district, which maintains a principal office at 1550 S. Main Street, Fort Worth, Texas 76104. Defendant Tarrant County Hospital District d/b/a JPS Health Network is registered under the laws of the State of Texas and maintains its principal place of business in Fort Worth, Texas. It may be served with process through Robert Early, its President, at 1500 South Main Street, Fort Worth, Texas 76104, through its legal department at 1500 South

Main Street, Fort Worth, Texas 76104, or alternatively through the Tarrant County District Attorney's Office at 200 E. Weatherford Street, Room 3040, Fort Worth, Texas 76196.

3. Defendant ThyssenKrupp Elevator Corporation, (hereinafter "ThyssenKrupp") a foreign for-profit corporation, maintains a principal office at 3155 West Big Beaver Road, P.O. Box 5084, Troy MI 48007, is licensed to practice business in Texas, and may be served with process through its registered agent, Prentice Hall Corporation at 211 E. 7th Street, Austin, Texas 78701.

II. VENUE AND JURISDICTION

4. Venue is proper in Tarrant County, Texas, pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002, because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. Venue is proper in Tarrant County against Defendants pursuant to TEX. CIV. PRAC. & REM. CODE § 15.005 because venue is proper against at least one Defendants and all claims and causes of action in this case arise out of the same transaction, occurrence, or series of transactions or occurrences.

5. Jurisdiction is proper in that the damages sought well exceed the minimum jurisdictional limits of the Court.

III. DISCOVERY

6. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure pending the submission of an Agreed Scheduling Order between the parties and approval and entry of the Order by the Court.

IV. CLAIMS FOR RELIEF

7. Plaintiff seeks monetary relief of over \$200,000.00, but not more than \$1,000,000.00.

V. FACTS

8. On September 11, 2017, Patricia Price was in John Peter Smith Hospital in Ft. Worth, Texas seeking a primary care physician. Her appointment was in the professional building of the hospital located at 1500 S. Main Street in Fort Worth, Texas (the “Property”). She was in the elevator on the 4th floor of the hospital.

9. While standing in the elevator, Ms. Price was violently jolted by the abrupt falling then stopping of the elevator. She was injured by the jolting and stopping of the elevator and was transported to the JPS emergency room via ambulance. Ms. Price was seen in the JPS emergency room following the incident.

10. The impact caused serious and permanent injuries to Ms. Price’s neck and back. These injuries required extensive medical treatment. The injuries and treatment for the injuries are continuous.

11. Upon information and belief, the elevator was malfunctioning prior to Patricia Price’s injuries, and the Property owner had received complaints from other users of the elevator in question and other elevators on the Property.

12. At all times precedent, Defendant JPS owned the Property.

13. Upon information and belief, Defendant ThyssenKrupp was the elevator maintenance company that Defendant JPS retained to service and maintain the elevators.

14. Upon information and belief, Defendant ThyssenKrupp failed to timely and properly complete the service requests and/or failed to properly maintain the elevator in proper working order.

VI. CAUSES OF ACTION

COUNT 1: NEGLIGENCE - JPS

15. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim.

16. Each of these foregoing acts and omissions, whether taken singularly or in combination, constituted negligence on behalf of the Defendant JPS, the owner of the Property, which was the proximate cause of the incident made the basis of this lawsuit and the subsequent injuries and damages sustained by Plaintiff.

- a. In failing to provide and maintain a safe environment for Plaintiff;
- b. In creating an unreasonably dangerous condition in an area of the Property under Defendant JPS control;
- c. In failing to maintain an area of the Property under Defendant JPS control in a reasonably safe and prudent manner;
- d. In failing to install and maintain a functioning elevator;
- e. In failing to correct and/or repair an unreasonably dangerous condition existing in the Property;
- f. In failing to eliminate the unreasonable risk of harm created by the defect in the elevator at the Property by taking the elevator out of service until it could be repaired.

17. The lack of maintenance on the part of Defendant JPS exposed Plaintiff to an unnecessary and unreasonable risk of harm which foreseeably lead to her being physically harmed by the faulty elevator.

18. Each of these foregoing acts and omissions, whether taken singularly or in combination, constituted negligence on behalf of Defendant JPS which was the proximate cause of the incident made the basis of this lawsuit and the subsequent injuries and damages sustained by Plaintiff.

COUNT 2: NEGLIGENCE – THYSSENKRUPP

19. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim.

20. The incident made the basis of this lawsuit and Plaintiff's resulting injuries and damages were proximately caused by the negligent conduct of Defendant ThyssenKrupp, the elevator installer and maintenance contractor for the property, in one or more of the following respects:

- a. In failing to properly install the elevator in question;
- b. In failing to properly inspect the operation of the elevator in question;
- c. In failing to properly maintain the elevator in question;
- d. In failing to timely remove the elevator from service;
- e. In failing to correct and/or repair the unreasonably dangerous condition existing with the elevator doors sudden and unexpected closing;
- f. In failing to correct and/or repair the unreasonably dangerous condition existing with the elevator doors ability to close all the way with a person standing in the elevator doorway;
- g. In failing to eliminate the unreasonable risk of harm created by the defect in the elevator at the Property by taking the elevator out of service until it could be repaired.

21. The lack of proper installation, inspection and maintenance on the part of Defendant ThyssenKrupp exposed Plaintiff to an unnecessary and unreasonable risk of harm which foreseeably lead to her being physically harmed by the faulty elevator.

22. Each of these foregoing acts and omissions, whether taken singularly or in combination, constituted negligence on behalf of Defendant ThyssenKrupp which was the proximate cause of the incident made the basis of this lawsuit and the subsequent injuries and damages sustained by Plaintiff.

COUNT 3: PREMISES LIABILITY ON DEFENDANTS

23. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim and allege that Defendants owed them a duty of ordinary care to keep the elevators on the Property it controlled in a reasonably safe condition.

24. Defendants breach the aforementioned duty in one or more of the following respects:

- a. In failing to inspect the elevators at the Property and warn invitees of the dangerous condition caused by the elevator's defect, which it knew or should have known posed an unreasonable risk of harm;
- b. In failing to identify the dangerous condition caused by the elevator's defect;
- c. In failing to heed and respond to the prior complaints about the dangerous condition caused by the elevator's defect;
- d. In failing to cure the dangerous condition posed by the defective elevator, which it knew or should have known posed an unreasonable risk of harm; and
- e. In failing to place barriers of warning to alert Plaintiff of the hazardous condition posed by the defective elevator.

25. Each of these foregoing acts and omissions, whether taken singularly or in combination, was a breach of Defendants' duties to Plaintiff and is the proximate cause of the incident made the basis of this suit and the injuries and damages she sustained.

COUNT 4: GROSS NEGLIGENCE

26. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim.

27. Upon reasonable belief that Defendants had actual knowledge of the Elevators propensity to stop and/or start violently, suddenly and unexpectedly, they had a duty to make necessary repairs to ensure the safety of its passengers. However, despite having actual knowledge of the Elevators tendency to stop and/or start violently, suddenly and unexpectedly, Defendants, collectively, failed to, and habitually ignored, the known issues. The actual knowledge and wanton disregard for the safety of Defendants' passengers and tenants rises to the level of gross misconduct, and therefore Defendants, collectively, were grossly negligent in their dealings.

COUNT 5: RES IPSA LOQUITUR

28. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim.

29. Plaintiff invokes the doctrine of *res ipsa loquitur*. Wherefore Plaintiff would show (1) the character of the event in question is such that it would not ordinarily occur but for the negligence of Defendants, and (2) the elevator which caused the injury was under the management and control of Defendants. *Bond v. Otis Elevator Co.*, 388 S.W.2d 681 (Tex. 1965).

VII. DAMAGES

30. As a direct and proximate cause of Defendants' negligence, Ms. Price sustained severe bodily injuries. Some of the injuries sustained by Ms. Price are permanent in nature. The injuries mentioned have had an adverse effect on Ms. Price health and wellbeing, and as a further result of the nature and consequences of her injuries, Ms. Price has suffered physical pain and suffering, anguish and physical impairment and in all reasonable probability will continue to suffer in this manner into the future, if not for the balance of her natural life.

31. Ms. Price has incurred past medical expenses which exceed the minimum jurisdictional limits of the court, and, in all reasonable likelihood, she will continue to incur future medical expenses as a result of her injuries.

VIII. PUNITIVE DAMAGES

32. Plaintiff adopts and incorporates each and every allegation of the aforementioned paragraphs as if set forth herein verbatim.

33. Despite actual knowledge of the Elevators tendency to malfunction, Defendants failed to make adequate, or any, corrections to the Elevator to ensure the safety of their passengers. Because the failure to correct a known problem arises to the level of gross misconduct, Defendants are liable for punitive damages.

IX. JURY DEMAND

34. Plaintiff demands a trial by jury and will pay the jury fee.

X. REQUEST FOR DISCLOSURES UNDER T.R.C.P. 194

35. Under the authority of Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose separately, within 30 days of the service of this request, the information or

material described in Rule 194.2(a) through (l). A response to a request under Rule 194.2(f) is due according to Rule 195.2 of the Texas Rules of Civil Procedure.

XI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant be cited to appear and answer herein, and upon final hearing, Plaintiff has and recovers from Defendants compensation for past medical expenses, future medical expenses, past pain and suffering, future pain and suffering, past emotional distress and mental anguish, future emotional distress and mental anguish, punitive damages, costs of court, pre-judgment and post-judgment interest in the highest lawful rate, and any further relief both at law and in equity to which Plaintiff may be justly entitled.

Respectfully submitted,



Thomas J. Fisher Bar No. 07064500
tommy@leasorcrass.com

Leasor Crass, P.C.
302 W. Broad Street
Mansfield, Texas 76063
(682) 422-0009 Telephone
(682) 422-0008 Facsimile

Attorney for Plaintiff